

DIRECTIVE

JOB TRAINING PARTNERSHIP ACT

Number: D99-11

Date: May 22, 2000
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TO: SERVICE DELIVERY AREA ADMINISTRATORS
PRIVATE INDUSTRY COUNCIL CHAIRPERSONS
JTPD PROGRAM OPERATORS
EDD JOB SERVICE OFFICE MANAGERS
WID STAFF

SUBJECT: WOTC AND WtW TAX CREDIT PROGRAMS

EXECUTIVE SUMMARY:

Purpose:

This directive provides updated information to Service Delivery Areas (SDA) and Private Industry Councils (PIC) regarding the reauthorization of the Work Opportunity Tax Credit (WOTC) and Welfare-to-Work (WtW) Tax Credit programs under the Ticket to Work and Work Incentives Improvement Act of 1999 (Public Law 106-170). Additionally, this directive provides information regarding currently required WOTC and WtW Tax Credit program eligibility forms.

Scope:

This directive applies to all California SDAs, PICs, and other entities contracting directly with the Employment Development Department (EDD) that operate programs funded under the Job Training Partnership Act (JTPA) and WtW programs.

Effective Date:

This directive is effective immediately.

REFERENCES:

- Ticket to Work and Work Incentives Improvement Act of 1999 (Public Law 106-170)
- Tax and Trade Relief Extension Act of 1998 (Public Law 105-277)
- Taxpayer Relief Act of 1997 (Public Law 105-34)
- Small Business Job Protection Act of 1996 (Public Law 104-188)

STATE-IMPOSED REQUIREMENTS:

This document contains some State-imposed requirements. These requirements are indicated in ***bold, italic*** type.

FILING INSTRUCTIONS:

This directive supersedes JTPA Directive D97-22, dated July 6, 1998, and finalizes Draft Directive DD-28, issued for comment on April 13, 2000. Retain this directive until further notice.

BACKGROUND:

On August 20, 1996, President Clinton signed the Small Business Job Protection Act of 1996 (Public Law 104-188). This legislation included WOTC, which replaced the Targeted Jobs Tax Credit that expired on December 31, 1994. The WOTC is designed to encourage employers to hire and retain job seekers from specific target groups who consistently have the most difficulty in securing employment. As originally written, employers who hired individuals from one of seven targeted groups would be eligible to receive a federal tax credit. The duration of the WOTC program was from October 1, 1996, through September 30, 1997.

On August 5, 1997, the President signed the Taxpayer Relief Act of 1997 (Public Law 105-34) which extended the WOTC program to June 30, 1998. This legislation included changes to the target group definitions, tax credit amounts, and introduced a two-tier retention period. Additionally, the Taxpayer Relief Act of 1997 added the new WtW Tax Credit that became effective on January 1, 1998, and expired on April 30, 1999. The WtW Tax Credit program targets the long-term family assistance recipient and is coordinated with the WOTC program.

The Tax and Trade Relief Extension Act of 1998 (Public Law 105-277) was signed into law on October 21, 1998. This legislation extended the WOTC program, without changes, through June 30, 1999, and made the program retroactive to its expiration of June 30, 1998. The reauthorization applied to individuals in target groups A through H who began work after June 30, 1998, and before July 1, 1999. The Tax and Trade Relief Extension Act of 1998 also extended the WtW Tax Credit, target group I, through June 30, 1999.

On December 17, 1999, the President signed the Ticket to Work and Work Incentives Improvement Act of 1999 (Public Law 106-170). It extends the WOTC and WtW Tax Credit programs for a 30-month period through December 31, 2001, and makes the reauthorization retroactive to the credits' expiration date of June 30, 1999. The reauthorization applies to individuals who began work for the employer on/or after July 1, 1999, and before January 1, 2002.

The WOTC and WtW Tax Credit have two purposes: (1) to promote the hiring of individuals who qualify as a member of a target group and (2) to provide a federal tax credit incentive of up to \$8,500 for employers who hire these individuals.

Both the WOTC and WtW Tax Credit are figured on qualified wages paid to or incurred on behalf of target group individuals. The WOTC can only be claimed on an individual's first year wages, while the WtW Tax Credit may be claimed for wages earned during an individual's first two years of employment. The actual amount of tax credit depends on several factors including the employer's tax rate, target group of the individual hired, amount of wages earned, and retention period. For additional WOTC and WtW Tax Credit specifics, visit the WOTC Web site at <http://www.edd.cahwnet.gov/wotcind.htm>. For marketing purposes, contact the Department of Labor (DOL) at (202) 219-9092 and request a copy of the DOL brochure, *9 New Ways Employers Can Earn Federal Income Tax Credits*.

The federal Department of the Treasury and DOL share administrative responsibility for the WOTC and WtW Tax Credit programs. The Department of the Treasury, through

the Internal Revenue Service (IRS), administers the tax provisions of the credits while DOL, through the Employment and Training Administration (ETA), provides guidance and oversight to states about determination of target group eligibility and the processing and certification of job applicants as target group members to employers. State Employment Security Agencies (EDD in California) are named as the “designated local agencies” and are responsible for issuing both Conditional Certifications and final certifications for the WOTC and WtW Tax Credit programs. However, by federal law, EDD may delegate WOTC and WtW Conditional Certifications to a participating agency (as defined on the following pages).

POLICY AND PROCEDURES:

The WOTC is coordinated with the WtW Tax Credit; therefore, an employer cannot claim both credits with respect to the same individual in any one taxable year.

On-the-Job (OJT) Training Provision:

If, for any period, an employer receives federally funded payments for OJT for an employee, none of the wages paid to that employee for the OJT period qualify for the WOTC or WtW Tax Credit. However, the time spent by the employee receiving OJT qualifies the employer towards fulfilling the minimum employment period requirement (retention period).

WOTC and WtW Tax Credit Certification Procedures:

For the purposes of the WOTC and WtW Tax Credit, a prospective employee is not considered a member of one of the targeted groups unless the individual is certified as such by the EDD WOTC Center. The EDD’s certification requirement may be satisfied in one of two ways. Under one approach, the employer must complete the *Pre-Screening Notice and Certification Request for the Work Opportunity and Welfare-to-Work Credits*, IRS Form 8850 (Rev. 11-98)/(DE 8737 Rev. 2 [5-99]) and the *Individual Characteristics Form, Work Opportunity Tax Credit and Welfare-to-Work Tax Credit*, ETA 9061 (Rev. 1-98)/(DE 8725 Rev. 4 [12-98]). These forms, which contain information on the prospective employee, must be completed on or before the day the individual is offered employment. Within 21 days after the individual begins work, the employer must submit the completed IRS Form 8850 and the ETA 9061 to EDD, requesting certification for the WOTC. Subsequently, EDD returns a document to the employer certifying the individual as a member of a targeted group.

Under the other approach, an employer may receive a Conditional Certification from EDD or a participating agency on or before the day the prospective employee begins work, stating that the individual appears to be a member of a targeted group. The Conditional Certification is issued on the attached *Conditional Certification, Work Opportunity and Welfare-to-Work Tax Credits*, ETA 9062 (Rev. March 1998)/(DE 8726 Rev. 3 [12-98]). The employer then submits this form, along with the IRS Form 8850, to EDD for final certification. The employer must submit the IRS Form 8850 and the ETA 9062 within 21 days after the participant starts work.

The EDD retains the responsibility for final certifications. However, Conditional Certifications will be delegated to participating agencies. A participating agency is defined as a federal, state, or local government agency or a grantee of these agencies.

Participating agencies may include, but are not limited to, EDD's Workforce Investment Division (JTPA grantees), California School-to-Work Interagency Transition Partnership (School-to-Career transition grantees), Department of Social Services (county welfare offices), Department of Rehabilitation (district branches and grantees), and Job Corps Centers.

Federal law requires that formal cooperative agreements be negotiated between EDD and participating agencies, allowing those agencies to assist in the WOTC and WtW Tax Credit initiative by performing eligibility determinations and issuing Conditional Certifications. Rather than require individual SDAs to negotiate a Memorandum of Understanding (MOU) with EDD, the Workforce Investment Division (WID) has entered into an MOU with the Job Service Division (JSD), EDD's administrator of the WOTC and WtW Tax Credit programs. This MOU establishes a nonfinancial agreement that allows the WID and its affiliates/contractors to issue the ETA 962 to their clients under these programs.

Participating Agency Conditional Certification Procedures:

The Conditional Certification process begins when a job seeker comes to the local employment office, SDA, or other participating agency to perform a job search, or in response to a positive recruitment.

To determine if a job-ready applicant is eligible and to issue a Conditional Certification for the WOTC and WtW Tax Credit programs, the SDA must complete the ETA 9062; **this is a required form**. No modification or substitution of this form may be made. Complete the ETA 9062 with the following information:

1. Enter the initiating agency code. ***For SDA/PIC purposes, this will be the three-digit code assigned by the Job Training Automation system.*** Additionally, indicate with a check mark "✓" that the initiating agency is a participating agency rather than EDD. *Attachment 1* lists the codes to be used for this section.
2. Enter the control number. ***This will be the client's social security number.*** Again, indicate with a check mark "✓" that this form is initiated by a participating agency.
3. Under "Type of Conditional Certification Determination," distinguish between "Original," if the client is being processed for the first time; or "Revalidation," if the eligibility process was performed within the previous 12-month period (45 days for the Ex-Felon and Summer Youth target groups only). Otherwise, the Conditional Certification is counted as "Original."
4. Enter the date (month, day, and year) in which the eligibility determination is completed.
5. Enter the following address for the EDD Job Service office issuing the final certification:

WOTC Center
P.O. Box 1408
Roseville, CA 95661

6. Sign and date the *Conditional Certification*, ETA 9062.
7. Enter the area code and telephone number of the agency issuing the *Conditional Certification*.
8. Enter the client's full name.
9. Enter the client's social security number.
10. Enter the client's home address, including apartment number and zip code.
11. For the WOTC program, enter a check mark "✓" in Box 11 to indicate if the client is Summer Youth or Other, and enter the appropriate WOTC target group code. Refer to the WOTC and WtW Tax Credit target group definitions listed below to obtain the correct alpha code.
12. For the WtW Tax Credit, enter a check mark "✓" in Box 12 to indicate *Conditional Certification* for the Long-Term Family Assistance group. Enter the alpha code for this specific target group.
13. Have the client sign the *Conditional Certification* form.
14. Enter the month, day, and year when the *Conditional Certification* expires.

Note: The validity period of a *Conditional Certification* that is based on an economic determination (i.e., Qualified Ex-Felon, Group C) is 45 days. Revalidation of the *Conditional Certification* is required if the 45 days have elapsed.

All other target groups have no predetermined validity period. However, the WOTC eligible job seeker is required to meet the specific requirements of his or her target group(s) at the time of hire.

The participant is provided the original *Conditional Certification* form. The participating agency may also include a copy of the IRS Form 8850 and may assist in completion of the applicant section. No supporting documentation is required to accompany the *Conditional Certification* form when presented to employers. The participant will present the original *Conditional Certification* form to prospective employers during the interview/hiring process. If the participant is offered employment, it is the employer's responsibility to complete boxes 15 through 20 on the *Conditional Certification* form and submit it, along with the IRS Form 8850, to EDD for final certification.

By federal law, participating agencies are required to retain a copy of the *Conditional Certification* form and supporting documentation for a period of five years after the *Conditional Certification* is issued. During each quarter EDD will draw, for the purposes of auditing, a ten percent sample of all certifications issued during the quarter, including those for qualified summer youth employees. The audit will be conducted to establish the credibility and reliability of the eligibility determination and certification process. Should the random draw include *Conditional Certifications* issued by participating agencies, these agencies may be contacted by EDD and requested to submit copies of the documentation that support their finding of WOTC and WtW Tax Credit target group eligibility.

Attachment 2 lists types of acceptable documentation that may be used when performing *Conditional Certification* eligibility determinations.

WOTC and WtW Tax Credit Target Group Definitions:

Group A—Qualified Recipient of AFDC or TANF

Any individual who is a member of a family receiving Aid to Families with Dependent Children (AFDC) or Temporary Assistance for Needy Families (TANF) (or a successor program) for any 9 months during the last 18 months ending on the hiring date.

Group B—Qualified Veteran

Any individual who is a member of a family receiving food stamps for at least 3 months during the last 15-months; **AND**:

- a) Having served on active duty (other than active duty for training) in the Armed Forces of the United States for a period of more than 180 days, **OR**
- b) Having been discharged or released from active duty in the Armed Forces of the United States for a service-connected disability, **AND**
- c) Not having any day during the 60-day period ending on the hiring date, which was a day of extended active duty in the Armed Forces of the United States.

Group C—Qualified Ex-Felon

Any individual who:

- a) Has been convicted of a felony under any statute of the United States, or any state,
- b) Has a hiring date which is not more than one year after the last date on which such individual was so convicted or was released from prison, **AND**
- c) Is a member of a family which has an income during the 6 months immediately preceding the earlier of the month in which such income determination occurs or the month in which the hiring date occurs, which, on an annual basis would be 70 percent or less of the Bureau of Labor Statistics Lower Living Standard Income Level (LLSIL).

The definition of the Ex-Felon target group has been clarified, in past legislation, to treat an individual as convicted if a state court places the individual on probation without a finding of guilty (deferred adjudication).

Ex-felons who are participating in a transitional program, e.g., work release, are eligible for the WOTC initiative if they were convicted of a felony **and** are members of an economically disadvantaged family.

Family/member of a family means one or more persons living in a single residence who are related to each other by blood, marriage, or adoption. A stepchild or a stepparent is considered to be related by marriage.

Group D—Qualified High-Risk Youth

Any individual who is:

- a) Age 18 but not age 25 on the hiring date, **AND**

- b) Resides within a federally designated Empowerment Zone or Enterprise Community.
Refer to *Attachment 3* for additional information regarding Empowerment Zones and Enterprise Communities.

Group E—Vocational Rehabilitation Referral

Any individual who:

- a) Has a physical or mental disability which results in a substantial barrier to employment, **AND**
- b) Has been referred to the employer upon completion or while receiving rehabilitative services under a written state plan approved under the Rehabilitation Act of 1973 or a program for veterans carried out under Chapter 31 of Title 38, United States Code.

Group F—Qualified Summer Youth

Any individual who:

- a) Performs services for the employer between May 1 and September 15, **AND**
- b) Is age 16 but not yet 18 on the hiring date (or if later, on May 1 of the calendar year involved), **AND**
- c) Has not been an employee during any period prior to the 90-day employment period allowed, **AND**
- d) Resides within a federally designated Empowerment Zone or Enterprise Community and has not previously worked for the employer seeking this tax credit. Qualified wages shall not include wages paid or incurred for services performed while the individual lived outside of the Empowerment Zone or Enterprise Community.

Group G—Qualified Food Stamp Recipient

Any individual who:

- a) Is age 18 but not 25 on the hiring date, **AND**
- b) Is a member of a family receiving food stamps for the 6 month period ending on the hiring date, **OR**
- c) Is receiving food stamps for at least 3 months of the 5 month period ending on the hiring date.

Group H—Qualified Supplemental Security Income (SSI) Recipient

Any individual who is certified by the designated local agency as receiving SSI benefits under Title XVI of the Social Security Act, (including benefits of the type described in Section 1616 of the Act or Section 212 of Public Law 93-66) for any month ending within the 60-day period ending on the hiring date.

Group I—Long-Term Family Assistance Recipient (WtW Tax Credit program only) (Individuals who began work on or after January 1, 1998)

- a) Any individual who is a member of a family receiving AFDC/TANF for at least 18 consecutive months ending on the hiring date, **OR**

- b) As being a member of a family receiving AFDC/TANF for any 18 months beginning after August 5, 1997, and is hired within two years, **OR**
- c) Who stopped being eligible for AFDC/TANF after August 5, 1997, because federal or State law limited the maximum time those payments could be made, and is hired within two years of the cessation of those payments.

ADDITIONAL INFORMATION:

For more information on the WOTC and WtW Tax Credit programs, contact the WOTC Center at (916) 774-4374, or visit the WOTC Web site:

General Information: <http://www.edd.cahwnet.gov/wotcind.htm>
Forms and Publications: <http://www.edd.cahwnet.gov/wotcform.htm>

The WOTC and WtW Tax Credit forms and publications are also available through your local EDD Job Service site.

ACTION:

Bring this directive to the attention of appropriate staff.

INQUIRIES:

Address questions regarding this directive to your assigned program manager or to Georganne Pintar Baldwin, Local Policy Guidance Unit Manager, at (916) 654-7611.

/S/ BILL BURKE
Chief

Attachments included as part of this document:

1. Initiating Agency Codes
2. Examples of Documentary Evidence or Collateral Contact for Establishing and Verifying Employment
3. Federal Empowerment Zones and Enterprise Communities

Attachment available in our Resource Information Center or by clicking on the link below. Copies may also be obtained by e-mailing WID at JTPDLib@edd.ca.gov (subject line should read: "Attachment") or contacting Gia Valla at (916) 654-7686.

4. *Conditional Certification, Work Opportunity and Welfare-to-Work Tax Credits*, ETA 9062 (Rev. March 1998)/(DE 8726 Rev. 3 [12-98])

INITIATING AGENCY CODES

Service Delivery Area	Initiating Agency Code	Service Delivery Area	Initiating Agency Code
Alameda County	ALA	Orange County	ORA
Anaheim	ANA	Richmond City	RCH
Butte County	BTE	Riverside County	RIV
Carson/Lomita/Torrance Consortium	CLT	Sacramento City/County Consortium	SAC
Contra Costa County	CON	San Benito County	SBE
Foothill Employment & Training Consortium	FET	San Bernardino City	SBI
Fresno City/County Consortium	FRS	San Bernardino County	SBO
Golden Sierra Consortium	GSC	San Diego Consortium	SDC
Humboldt County	HUM	San Francisco City/County	SFO
Imperial County	IMP	San Joaquin County	SJC
Kern/Inyo/Mono Consortium	KIM	San Luis Obispo County	SLO
Kings County	KNG	San Mateo County	SMC
Long Beach City	LBC	Santa Ana City	SAN
Los Angeles City	LAI	Santa Barbara County	SBA
Los Angeles County	LAO	Santa Clara County	SCL
Madera County	MAD	Santa Cruz County	SCR
Marin County	MAR	SELACO	SEL
Mendocino County	MEN	Shasta County	SHA
Merced County	MER	Solano County	SOL
Monterey County	MON	Sonoma County	SON
Mother Lode Consortium	MLC	South Bay Consortium	SBY
Napa County	NAP	Stanislaus County	STN
NoRTEC Consortium	NOR	Tulare County	TUL
North Central Consortium	NCC	Ventura County	VNP
NOVA Consortium	NOV	Verdugo Consortium	VER
Oakland City	OAK	Yolo County	YOL

**EXAMPLES OF DOCUMENTARY EVIDENCE OR COLLATERAL CONTACT
FOR ESTABLISHING AND VERIFYING EMPLOYMENT**

Note: This list is not intended to be all-inclusive.

Age/Birthdate

(required for High Risk Youth, Summer Youth, and Food Stamp groups)

- Birth certificate
- Driver's license
- School I.D./school records
- Work permit
- Federal/State/local government I.D.*
- Hospital record of birth

Family Income

(required for Ex-Felon group)

- Pay stubs
- Employer contacts
- W-2 forms
- Unemployment Insurance documents
- Public assistance records
- Family member statements
- Parole officer's statement

Vocational Rehabilitation Referral

- Vocational Rehabilitation agency contact
- Social services agency contact
- Veteran's Administration contact

Ex-Felon Status

- Parole officer's name
- Corrections institution records
- Court records, extracts
- Contacts

**Temporary Assistance for Needy Families/Aid to Families with Dependent
Children (TANF/AFDC) Recipient and Long-Term Assistance Recipient**

- AFDC benefit history
- Signed statement from authorized individual with specific description of months benefits were received
- Case number/identifier

*Where any item of documentary evidence does not contain the holder's age or birthdate, staff must obtain another documentary source to verify the individual's age.

Veterans Status

- DD-214
- Reserve unit contacts
- Discharge papers

Member In Family

(required for Ex-Felon)

- Public assistance
- Social services agencies
- Family member's statement
- Parole officer's statement

SSI Recipient

- SSI record or authorization
- SSI contact
- Evidence of SSI issuance

Empowerment Zone/Enterprise Community

- Driver's license
- Work permit
- Utility bills
- Lease documents
- Voter registration card
- Computer printout from other government agencies
- Food stamp award letter
- Housing authority verification
- Landlord's statement
- Letter from social service agency or school
- Library card**
- Medicaid/Medicare card
- Property tax record
- Postmarked envelope addressed to applicant
- Public assistance records
- Rent receipt
- School I.D. card
- Selective Service registration card
- W-4

Food Stamp Recipient

- Food stamp benefit history
- Signed statement from authorized individual with specific description of months benefits were received
- Case number/identifier

**Where any item of documentary evidence does not contain the holder's address, staff must obtain another documentary source to verify the individual's address.

FEDERAL EMPOWERMENT ZONES AND ENTERPRISE COMMUNITIES

Federal Empowerment Zone and Enterprise Community (EZ/EC) refers to an area or combination of areas meeting certain population, size and poverty criteria. These areas can be characterized as having pervasive poverty, unemployment and general distress.

California has one Empowerment Zone, four urban and two rural Enterprise Communities. The Empowerment Zone is in Los Angeles. The four urban Enterprise Communities are in:

- Los Angeles-South Central/Huntington Park
- Oakland
- San Diego
- San Francisco

The two rural Enterprise Communities are in:

- Imperial County
- Watsonville City and Santa Cruz County

Because only certain census tracts within a zip code area are in an Empowerment Zone (EZ) or Enterprise Community (EC), not every summer or high-risk youth who resides in the areas indicated above are eligible for the Work Opportunity Tax Credit (WOTC) certification. To verify an applicant's address to ensure that his/her residence is in the Empowerment Zone or Enterprise Community, you may enter the individual's address on the EZ/EC Web site at:

<http://www.ezec.gov>

The system will check the address and confirm whether it is in an Empowerment Zone or Enterprise Community. You may also link to this EZ/EC Web site through the Employment Development Department (EDD) WOTC Web site at:

<http://www.edd.cahwnet.gov/wotcind.htm>

If you do not have Internet connectivity, you may contact the Department of Housing and Urban Development (HUD) Information Center at 1-800-998-9999, and they will check the address for you.

The EDD is an equal opportunity employer/ program. Auxiliary services and assistance are available to persons with disabilities. The Telecommunications Device for the Deaf (TDD) users can reach EDD through California Relay Service at 1-800-735-2929.